IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14646 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHANDULAL VRAJLAL KURANI - Petitioner(s)
Versus
MANAVADAR MUNICIPAL BOROUGH & 3 - Respondent(s)

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Appearance :
MR KISHOR M PAUL for the Petitioner
MR MURALI N DEVNANI for Respondent No.1
MS REETA CHANDARANA A.G.P. for Respondent Nos. 2,3 and 4.
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 08/03/2006

ORAL JUDGMENT

1. It is the case of the petitioner that inspite of having put in sufficiently long service to earn him pension, the petitioner is not paid pensionary benefits by the respondents.

2. The petitioner retired as a Panchayat employee with effect from 30.04.2001. It is the case of the petitioner that though sufficient time is passed, the respondents have not released post retiral benefits.

3. On the other hand, it is the case of respondent No.1 Municipal Borough that they have already forwarded the pension papers to the government, which has not been finalised. The stand of the government as emerging from the affidavit-in-reply and from the oral submissions made by the learned Assistant Government Pleader is that the case of the petitioner for pensionary benefits is yet to be finally decided by the State Government. It is contended that the State Government has to verify whether the initial appointment of the petitioner was in accordance with rules or not. It was also urged before the Court that the petitioner disclosed incorrect date of birth while securing employment. It is stated that the correct date of birth as emerging from the School Leaving Certificate is 10th March, 1937 whereas the petitioner had declared his date of birth before the authorities at the time of entry in service as 15th March, 1947. It is therefore, the case of the respondents that the petitioner continued for nearly four years beyond his age

of superannuation on the basis of correct date of birth.

4. Learned Advocate for the petitioner contended that no inquiry has been held against the petitioner to prove such charges. In fact in criminal case filed against the petitioner, he has been acquitted. He therefore, submitted that at best the government could ignore the service rendered by the petitioner for the disputed period but cannot withhold the pension and other post retiral benefits. He submitted that if the government were to release post retiral benefits of the petitioner on the above basis, the petitioner would not insist on counting disputed service towards pensionary benefits and other benefits except for retention of salary already paid to him.

5. *Prima-faice* it appears that no inquiry has been conducted against the petitioner which would permit the respondents to forfeit his pension. The petitioner has also shown willingness to forego the pensionary benefits to the extent of disputed service rendered by him. In that view of the matter, if the petitioner makes a representation within a period of four weeks from today, the government will take a decision regarding the post

retiral benefits of the petitioner expeditiously within a period of four months from the date of receipt of such a representation.

6. With these directions, the petition is disposed of. Rule is made absolute to the above extent. No order as to costs.

[Akil Kureshi, J.]

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